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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,439	04/24/2002	Jia-Shing Sheu	VIAP0017USA	4960
27765	7590	04/05/2004	EXAMINER	
NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE) P.O. BOX 506 MERRIFIELD, VA 22116			DINH, TAN X	
			ART UNIT	PAPER NUMBER

2653

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,439

Applicant(s)

SHEU ET AL.

Examiner

TAN X. DINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1) Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

3) (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) Claims *1-3,6-10,13 and 14* are rejected under 35 U.S.C. 102(b) as being anticipated by TANI (5,623,464).

TANI discloses a method for accessing tracks on an optical storage medium as claimed in claim 1, comprising the step of exerting a brake force on the sled according to a sliding speed of the sled relative to optical storage medium when the sled is located at an intermediate position in sliding from an initial position to a target position on the optical storage medium (figures 7A-7E, at intermediate position t3 (figure 7E), the brake signal start applies to the sled and stop at target position t4 in figure 7E).

Apparatus claim 8 corresponding to the method of using same as claimed in claim 1. Therefore, apparatus claim 8 is rejected for the same reasons of anticipation (obviousness) as used above.

As to claims 2,3,9 and 10, TANI shows the intermediate position is located between initial position and target position

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(Fig.7E, the intermediate position is the position at t3 which is between initial position t1 and target position t4).

As to claims 6,7,13 and 14, TANI shows the brake force is constant, and the duration of exerting the brake force on the sled is determined by the sliding speed of the sled relative to the optical storage medium (the brake force is constant as seen in figure 7E).

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7) Claims 4,5,11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over TANI (5,623,464).

TANI discloses all the subject matter claimed as in claims 4,5,11 and 12, *except* to specifically show that the intermediate position is one track or quarter track before target track. However, TANI suggests in column 14, line 59 to column 15, line 5 that the number of tracks before target track can be set at 2.5 track, 1.5 track or 0.5 track depends on any suitable tracking systems. Therefore, to set the intermediate position of one track or quarter track before target position in TANI's accessing system is deem obvious to someone within the level of skill in the art.

8) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See form PTO-892 attached herein).

Applicant is reminded that in amending in response to a rejection of claims (if the rejection involves with any applicable arts), the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must also show how the amendments avoid such references and objections. See 37 CFR §1.111(c).

9) Any inquiry concerning this communication or earlier
~~communications from the examiner should be directed to TAN X. DINH~~

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whose telephone number is (703) 308-4859. The examiner can normally be reached on Monday - Friday, 8:00AM - 5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER
April 1, 2004